

KENYA

A'S NATIONAL ANTI-CORRUPTION STRATEGY EXECUTIVE SUMMARY

Identification of the problem areas that need to be tackled to combat corruption has been divided into five critical areas: Rule of Law; Financial Management, Public Procurement, Public Sector Reforms and Customs and Revenue. Here is a short summary of each area of actions taken or to be taken, including possible time frames (i.e. short term up to 18 months; medium term up to 4½ years; and long term, 5 years and beyond) and implementation responsibilities. The financial resources for effective implementation have not been identified as they require a very detailed study which was not within the team's capacity financially and time-wise to conduct.

1. RULE OF LAW

Problems of law and order in Kenya relate to an inadequate legal framework and a weak law enforcement system. To address these problems, Government has made a number of institutional arrangements. It has established an independent anti-corruption commission; it has facilitated and supported the establishment of a Parliamentary Committee on corruption; there has been establishment of a Legal Sector Co-ordinating Committee to research and address the multifarious sub-sectoral problems; and there is a Judicial Committee implementing identified reforms. Specifically, the issue of inadequate legal framework has to be addressed by reviewing and amending laws with a bearing on prevention, investigation and prosecution of corruption. It is expected that this exercise can be accomplished in the short term. Implementation responsibility obviously lies with the Government. The country team and civil society will play the role

of necessary advocacy for the desired changes. The issue of law enforcement agencies has to be tackled by enhanced training, building, improving remuneration, computerisation, sufficient and adequate appropriate equipment, improving record management systems, improving physical facilities, developing codes of conduct for leaders and public officials and encouraging high standards and meritocracy in public services. The measures to be taken in the medium term and long term for implementation of these measures is within the domain of the Government. Team and civil society can only play an advisory role and collaborate with Government and other stakeholders to work on a national strategy. The overall effect of addressing the twin problems identified would be a substantial reduction in corruption. The quick wins in this problem area are possible and found in the area of formulating an adequate legal framework, developing suitable codes of conduct, preventive education measures and investigation and prosecution of offenders.

2. FINANCIAL MANAGEMENT

In Kenya, the problems relating to financial management include inadequate planning and prioritisation of resource use leading to delayed/abandoned projects; inadequate technical manpower and facilities to enable proper accounting and hence control of corruption; inadequate, unreliable and untimely delivery of budget resources; weak accounting and audit management information systems; disparate audit institutional frameworks leading to audit delays; and poor follow-up and implementation of audit reports.

Address the above problems, several measures have been taken by the Government. They include a reinvigorated strategy for rationalization in planning and monitoring public expenditure; a policy called district focus for rural development; introduction of medium term expenditure frameworks (MTEF), for approval of new projects, prioritisation of ongoing projects, a move from incremental to rationalised budgets, strengthening of procurement and accounting systems and their decentralisation, appointment of qualified financial officers for Government ministries; introduction of better cash management practices and increase in the capacity of the Controller and Auditor-General. Actions taken by Government to further strengthen financial management include putting in place MTEF to strengthen prioritisation of resource distribution and the management of public procurement procedures, harmonisation of audit activities of the Government, staff training and empowering the Parliamentary Commission on Enquiry to play a useful role in rationalising Government budgets.

One role that civil society and the team can play in this area is advocacy, dissemination of information and monitoring. Key wins can be recorded only in the identification of abandoned projects, in proper manpower planning and recruitment, and in updating the relevant schemes of service. A clear set of actions can only be carried through in the medium term. The net effect of all the above measures will be a substantial reduction in corruption.

C PROCUREMENT SYSTEMS

This is an area with many loopholes and is thus a fertile ground for corruption. The problems are a weak institutional framework, a need for the system in place; and weak capacity on the part of procurement personnel to understand the system. Knowing

that many complaints of corruption emanate from the procurement field, the procurement system has been strengthened by reconstituting the Central Tender Board under the chairmanship of a private sector personality, clarifying the functions of the tender boards and upgrading the level of chair and members; directing that all transactions be through competitive bids; and incorporating members of Parliament and Councillors in Tender Boards.

To strengthen this area further, it is intended to introduce necessary laws and procedures; recast the supplies manuals for public bodies to streamline the procurement system, and provide training and capacity building; review service regulations to eliminate areas of potential conflicts of interest; and to identify and blacklist deviant suppliers.

Needless to state, the big actor will be Government. In a free society and the team can only undertake advocacy for better systems, monitor procurement practices, raise pertinent issues and encourage the private sector to develop and abide by its own codes of conduct. Many of the contemplated measures are simple and able to quick Wins and can be implemented in the short term. Indeed only the complete production of new supplies manuals are medium term measures. The implementation of the supply reform measures will result in a substantial reduction of corruption.

4. PUBLIC SECTOR REFORMS

The failures of public management and Governance in developing countries are typified with declining quality of service, inadequate policy formulation, weak financial management and poor decision making thus leading to misallocation and misappropriation of financial resources among many other ills. The manifestations of public sector failure can be seen by the non-performance of core functions of Government creating opportunities for

ent; size of the civil service being too large thus leading to inadequate Operational Management (O&M) budgets, hence poor service delivery in every respect; low pay killing morale of public servants; no specific work ethic and weak performance and capacity-building environment; and public sector not properly integrated within the economy.

Kenya Government has endeavoured to address the problems by, *inter alia* putting in place a clear institutional framework for public sector reforms including establishment of reform committees, defining core functions of government and issuing guidelines on ministerial rationalisation and right sizing. Ministries have been reduced from 28 to 18. Guidelines have been issued on the proper ratio in the budget between personnel emoluments and operations/maintenance (O&M) with the intention of moving to 60/40 in the short term and 50/50 in the long term, a new objective performance appraisal criteria has been developed and the code of conduct is being reviewed to address discipline and other matters. There are a lot of other actions that can and should be implemented as detailed in the matrix. Civil society will play a role of advocacy for implementation of stated policies on rationalisation, right sizing conflict of interest and transparency. Civil society too will join in the Advocacy and keep monitoring the implementation of various measures. The quick wins might turn into long term actions in the implementation of the various circulars pertinent to rationalisation and right sizing. This can be done in the short term. The medium term action is expected in the area of implementation of code of conduct, implementation of MFEF and development of a framework for training. In the long term, it is expected that all these reform measures will be implemented. The result will be a leaner more efficient public sector where corruption will be minimal.

5. CUSTOMS AND REVENUE

Customs and other revenue collections units of Government have been areas that have experienced endemic corruption. Some of these problems include under declaration/collection, misclassification; dumping of goods; bribery of staff; falsification of documents; false exemptions; falsification of export; falsification of import VAT.

The Government has created integrated revenue services by creating the Kenya Revenue Authority. The Government has also registered a number of internationally recognised companies to undertake pre-shipment inspection; there is surveillance by the Kenya Revenue Authority Transit monitoring Unit (TMU). In the case of default heavy penalties are incurred: the government has also launched the Revenue Protection Service to encourage and educate tax payers on the consequences of tax evasion. Transit fuel has been placed with a special marker such as working with Tanzania Revenue Authority and Uganda Revenue Authority can eliminate the problems of dumping.

For successful implementation of the reforms in customs and revenue, the Government is committed to the operational autonomy of Kenya Revenue Authority; it intends to finance the automation of Kenya Revenue Authority systems and increase capacity to collect revenue and strengthen the judiciary. Kenya Anti-Corruption Authority and police force so as to prosecute corruption cases expeditiously. On the other hand, civil society will advocate for the education of members of the public on revenue laws and procedures. The team will continue to advocate of necessary measures and monitor performance against stated Government Programmes.

OF ACTION PLANS WITH EXISTING PROGRAMMES

ent that most actions will be taken by the Government. I actions done and proposed to be done by the Govern- : already identified as part and parcel of its overall :k to increase efficiency and fight corruption in the ctor. As regards civil society, the advocacy and moni- le it assumes in the action plan is its daily cup of tea The team is a new actor. It has undertaken to do what it can, given its composition and specific circumstances of

TRY TEAM'S EFFORTS

: time the Kenyan team met in Washington to date, we ked closely in the development of the action matrix, in

the brainstorming on possible elements and milestones development of a national strategy to combat corruption interesting various stakeholders in the anti-corruption. One of the latest successes by the team was planning for holders workshop that took place in Nairobi on 17 S 1999. This workshop brought together the Government vate sector, civil society, the media and Parliament, to on the strategic plan of the Kenya Anti-corruption Auth on elements of a successful national strategy to comba tion. The team hopes it will stick together and collabora with other stakeholders in playing a positive role in against corruption.

S NATIONAL INTEGRITY STRATEGY

DRAFT FOR DISCUSSION

<i>Who benefits?</i>	<i>Who loses?</i>	<i>Actions already taken</i>	<i>Actions to take</i>	<i>Expected results when?</i>
<ul style="list-style-type: none"> • Corrupt public servants • Corrupt individuals outside of Gov't system 	<ul style="list-style-type: none"> • The public • Victims of corruption • Gov't Revenue Agencies • Investors 	<ul style="list-style-type: none"> • Kenya Anti-Corruption Authority (KACA) established • Parliament Select Committee on Corruption established • KACA has developed an Anti-Corruption Strategy • KACA has proposed amendments to the Prevention of Corruption Act • Committee established to implement proposals on the improvement of the Administration of Justice within the judiciary • Legal Sector Reform Coordinating Committee established • Terms & conditions of service of judicial officers improved 	<p><i>Government:</i></p> <ul style="list-style-type: none"> • Review pertinent legislation, including Prevention of Corruption Act, Evidence Act, Criminal Procedure Code, Penal Code and Police Act • Undertake legal sector capacity building by improving remuneration, computerising supply equipment, improving record mgmt systems, and improving physical facilities • Develop Code of Conduct for leaders and public officials • Encourage meritocracy in public service <p><i>Civil Society:</i></p> <ul style="list-style-type: none"> • Advocacy for effective legal and institutional frameworks • Using networks and dissemination channels (e.g. media) to expose lapses in diligence and acts of corruption • Using umbrella organs to strengthen members individually and collectively <p><i>Team</i></p> <ul style="list-style-type: none"> • Lobby Gov't for necessary legal changes and enhanced resource allocation to law enforcement agencies • Collaborate in draft and design of National Strategy to fight corruption • Strengthen co-ordination within civil society 	<p><i>Short term (up to 18 months)</i></p> <ul style="list-style-type: none"> • A more suitable set of laws and institutions to fight corruption will be enacted <p><i>Medium term (up to 4 years)</i></p> <ul style="list-style-type: none"> • Strengthened institutions for the fight against corruption • Substantial reduction in corruption <p><i>Long term (up to 5 years and beyond)</i></p> <ul style="list-style-type: none"> • Substantial reduction in corruption

9th International Anti-Corruption Conference (IACC), 10-15 October, 1999, Durban, South Africa

Who benefits?	Who loses?	Actions already taken	Actions to take	Expected results when?
Management				
<ul style="list-style-type: none"> • Corrupt public servants • Corrupt private sector counterparts 	<ul style="list-style-type: none"> • The macro-economy, public and tax-payers • Intended beneficiaries of Gov't service • General economic growth • Business community whose payments are delayed 	<ul style="list-style-type: none"> • District Focus Strategy for Rural Development is being reinvigorated • Recommendations of ministerial Public Expenditure Review (1997) are being implemented. These recommendations include: introduction of Medium Term Expenditure Framework (MTEF); moratorium on new projects, prioritizing on-going projects; move from incremental to rationalised budgets • Integrated Financial Info Systems (IFIS) is being introduced to cover the integration and computerisation of accounting and budgetary processes up to the District level. This includes strengthening of financial and accounting systems and their decentralisation to provinces and districts • Budgeting and financial functions made professional through the appt of finance officers in Ministries answerable to Treasury • Ministries have been given individual accts at the Central Bank of Kenya as part of proper cash mgmt. • CAG authorised to appoint external auditors • Strengthening of Parliament's oversight capacity through the parliamentary Select Committee on corruption 	<p><i>Government:</i></p> <ul style="list-style-type: none"> • Strengthen participation of grass-roots in planning and monitoring public expenditure • MTEF will be put in place to strengthen prioritisation of resource mgmt of public expenditure procedures • Harmonise audit activities of Gov't • Improve schemes of service for audit and accounting personnel • Retrain staff • Strengthen implementation of the provisions of the Exchequer and Audit Act • Continue with the implementation of IFMS • Empower Parliamentary Finance Committee to play useful role in rationalising ministerial budget <p><i>Civil Society:</i></p> <ul style="list-style-type: none"> • Pursue advocacy on transparency • Support Gov't initiatives to increase grass-roots involvement in public expenditure affairs • Exploit the potential which exists in collaborating with professional bodies • Monitor quality of gov't interventions, such as quality of personnel, adequacy of funds and audits • Use extensive networks to undertake education on the budget and related issues <p><i>Team</i></p> <ul style="list-style-type: none"> • Undertake advocacy • Monitor performance 	<p><i>Short term</i></p> <ul style="list-style-type: none"> • Identification of • Proper manpower planning and development and update schemes of service <p><i>Medium term</i></p> <ul style="list-style-type: none"> • Operationalise • Operationalise • Develop a demand-driven training programme • Substantial reduction in corruption <p><i>Long term</i></p> <ul style="list-style-type: none"> • Operationalise sustainable pay and grading system • Follow up on the various issues commenced and proposed • Substantial reduction in corruption

9th International Anti-Corruption Conference (IACC), 10-15 October, 1999, Durban, South Africa

<i>Who benefits?</i>	<i>Who loses?</i>	<i>Actions already taken</i>	<i>Actions to take</i>	<i>Expected results when?</i>
ment				
<ul style="list-style-type: none"> • Corrupt public servants • Businessmen • Political wheeler-dealers 	<ul style="list-style-type: none"> • The country /economy • Gov't institutions concerned • Law-abiding business community, especially those excluded by the corrupt deals 	<ul style="list-style-type: none"> • Institutional framework for procurement and tendering has been reconstituted and revitalized, including: Central Tender Board (CTB) now chaired by a private sector personality • Ministerial Tender Board's functions clarified, quorum increased, level of chair and membership up-graded • All transactions to be through competitive bidding • Area MPs and Councilors now incorporated in District Tender Boards • Public Procurement and Enhanced Capacity Reform underway 	<p><i>Government:</i></p> <ul style="list-style-type: none"> • Review all procurement laws & procedures • Recast the Supplies Manuals for all public bodies • Undertake training and capacity building for all supplies cadre in central gov't, local authorities and state corps. • Open all Gov't tender awards to public scrutiny • Review service regs. to eliminate all areas of potential conflicts of interest • Continue with activities which are currently under implementation • Identify & exclude deviant entities from future procurement <p><i>Civil Society:</i></p> <ul style="list-style-type: none"> • Focus on advocacy • Monitor Gov't conduct & raise pertinent issues • Encourage members to develop & abide by codes of conduct <p><i>Team</i></p> <ul style="list-style-type: none"> • Undertake advocacy • Monitor Gov't performance 	<p><i>Short term</i></p> <ul style="list-style-type: none"> • Reforms to the procurement and tendering system to be completed including the incorporation of private sector members • Complete appt board members • Substantial reduction in corruption <p><i>Medium term</i></p> <ul style="list-style-type: none"> • Complete production of supplies manuals • Substantial reduction in corruption <p><i>Long term</i></p> <ul style="list-style-type: none"> • Transparent and competitive procurement in place

9th International Anti-Corruption Conference (IACC), 10-15 October, 1999, Durban, South Africa

<i>Who benefits?</i>	<i>Who loses?</i>	<i>Actions already taken</i>	<i>Actions to take</i>	<i>Expected results when?</i>
Reform (PSR)				

9th International Anti-Corruption Conference (IACC), 10-15 October, 1999, Durban, South Africa

<i>Who benefits?</i>	<i>Who loses?</i>	<i>Actions already taken</i>	<i>Actions to take</i>	<i>Expected results when?</i>
<ul style="list-style-type: none"> • Favoured individuals • Private companies supplying inputs • Unproductive/low output workers • Ghost workers • Favoured suppliers • Public officers in "deals," unethical workers • Private entities which collude with such workers 	<ul style="list-style-type: none"> • The macro-economy • The public • The Exchequer • Potentially efficient workers • Intended beneficiaries of public services 	<ul style="list-style-type: none"> • Implementation of clear institutional framework for PSR, including the establishment of sectoral reform committees • Distribution of Gov't circular on Core Functions of Gov't (1999). To support Circular, Guidelines on ministerial rationalisation & staff rightsizing have been developed & issued to ensure that rationalisation will address ministerial structures, objectives & policy priorities, wage bill mgmt, training & capacity building, and pay & benefits • Reduction of Ministries from 28+7 depts to 15+7 depts (9/99) • All permanent secretaries and sr. officers have attended sensitisation & capacity building meetings on CSR reforms • Presidential Committee on Harmonisation of Terms and Conditions of Service for public officers (CHOTACS) formed & report expected soon • Guidelines issued on the proper ratio in recurrent budget between personnel emoluments & O&M to move to 60/40 in the medium term & 50/50 in the long term for improved performance. This underscores the need to downsize the civil service by about 30% • Development and implementation of new objective performance appraisal criteria • Revision of Code of regs. to address discipline & other ethical matters 	<p><i>Government:</i></p> <ul style="list-style-type: none"> • Ministerial rationalisation & rightsizing process is on-going • Pay policy to be developed to dynamise & sensitise pay to cost of living indices • Sensitisation & capacity building workshops on ministerial rationalisation will continue to develop the proper "ministerial mix" which will be reflected in the MTEFs • Output of CHOTACS to be studied for implementation • Training & manpower planning policies to be developed to clearly guide training and capacity building in civil service. The service should then move away from any supply- to demand-driven training programmes • Continue integrated strategy for PSR & performance mgmt which already involves local authorities, reg'l development authorities, teaching service, public universities & state corps. which rely on the Exchequer <p><i>Civil Society:</i></p> <ul style="list-style-type: none"> • Advocacy. Push for implementation of intentions on rationalisation and rightsizing, conflicts of interest, & transparent distribution of resources <p><i>Team</i></p> <ul style="list-style-type: none"> • Engage in advocacy and monitoring, emphasize issues of accountability 	<p><i>Short term</i></p> <ul style="list-style-type: none"> • Circulars on various forms will be implemented resulting in rationalisation & rightsizing • CHOTACS report (12/99) • Action on a plan to prove remuneration have been developed <p><i>Medium term</i></p> <ul style="list-style-type: none"> • Code of Conduct developed & will influence attitudes to and accountability at work • MTEF implemented to improve general resource mgmt • Framework for performance will have been developed & implementation commenced to improve performance • Substantial reduction in corruption <p><i>Long term</i></p> <ul style="list-style-type: none"> • All reform actions developed & implemented resulting in a leaner, efficient public sector • Substantial reduction in corruption

9th International Anti-Corruption Conference (IACC), 10-15 October, 1999, Durban, South Africa

<i>Who benefits?</i>	<i>Who loses?</i>	<i>Actions already taken</i>	<i>Actions to take</i>	<i>Expected results when?</i>
Revenue Authority				
<ul style="list-style-type: none"> • Businessmen • Police officers • Customs officials • Ports officials • External companies • Eligible taxpayers 	<ul style="list-style-type: none"> • Gov't • Local industries • Kenya Revenue Authority (KRA) • Kenyans 	<ul style="list-style-type: none"> • Integrated revenue service (KRA) established • Pre-shipment inspection by internationally recognized firms • Surveillance by Transit Monitoring Unit (TMU) • Penalties increased • Launch of Revenue Protection Service • Tax payer education • Marker on transit fuel • Networking with TRA and Uganda Revenue Authority put in place 	<p><i>Government:</i></p> <ul style="list-style-type: none"> • Ensure total autonomy of KRA • Finance the automation of KRA systems • Strengthen the judiciary and police force • Enhance capacity of KRA to collect taxes <p><i>Civil Society:</i></p> <ul style="list-style-type: none"> • Empowerment of society on revenue laws & procedures <p><i>Team:</i></p> <ul style="list-style-type: none"> • Undertake advocacy of necessary measures • Monitor performance 	<p><i>Short term</i></p> <ul style="list-style-type: none"> • Improved revenue collection <p><i>Medium term</i></p> <ul style="list-style-type: none"> • Substantial reduction in corruption <p><i>Long term</i></p> <ul style="list-style-type: none"> • Enhanced economic growth • Substantial reduction in corruption